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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/823,484	03/30/2001	Jay H. Connelly	42390P10858	5737
8791 7590 11/02/2009 BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP 1279 OAKMEAD PARKWAY SUNNYVALE, CA 94085-4040				
EXAMINER				
ALAM, MUSHFIKH I				
ART UNIT		PAPER NUMBER		
2426				
MAIL DATE		DELIVERY MODE		
11/02/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Claim 1, Applicant argues that Brunheroto fails to teach that such web server 106 broadcasts a multi-media data file that is scheduled for broadcast by TV broadcast station 112 as part of a predetermined network broadcast schedule, as in Claim 1. Rather than broadcast a multi-media data file selected from the plurality of upcoming multi-media data files prior to the upcoming scheduled broadcast, by a broadcast server of a broadcast service system as part of the predetermined network broadcast schedule, as in Claim 1, the web server referred to by the Examiner does not broadcast multi-media content. In contrast with Claim 1, the web server of Brunheroto is used to track audience viewing of the interactive content provided to the broadcast station for broadcast via broadcast network 113, which is shown as block 305 in FIG. 3, with tracking server 307 corresponding to web server 106 as shown in FIG. 1. (See page 5, ¶ [0074].).

In response to Applicant's argument, Brunheroto is relied upon for teaching "a broadcast server of a broadcast service system that is separate from a service provider system". This feature is combined with Seidman's technique for broadcasting upcoming multimedia files. One of ordinary skill in the art would combine the two references in order to produce how many people are enjoying enhanced programming and disclosed in the Office Action. This allows for the combination to utilize a system that may have "a broadcast server" to be separate from a "service provider system".

Applicant further argues that according to Hite, such pre-stored commercials are used for situations where time synchronization of several channels of alternate

commercials is not possible without causing conflicts with normally scheduled preemptable commercials. (See col. 12, lines 21-25.) Hence, although such commercial is broadcast prior to a commercial spot, we submit that such pre-stored commercials are not selected from a plurality of upcoming multi-media data files that are scheduled for an upcoming broadcast as part of a predetermined network broadcast schedule. It is improper for the Examiner to rely on Hite since it cannot be said that a pre-stored commercial of Hite is broadcast prior to the upcoming scheduled broadcast of the pre-stored commercial, by the broadcast server of the broadcast service system as part of the predetermined network broadcast schedule, since such additional broadcast of the pre-stored commercials would be a waste of broadcast bandwidth.

The Examiner respectfully disagrees. The claims are read in the broadest sense. Hite discloses a feature that allows the use of pre-stored commercials to be played back in certain situations. Since the commercials are pre-stored, they must be broadcast before an upcoming broadcast and subsequently "pre-stored". One scenario is when time synchronization of several channels is causing conflicts. These pre-stored commercials are known to be substituted in the pre-determined commercials locations. The effect of the time synchronization does not have an affect of the storing of the pre-stored commercials, these commercials are still stored. Thus, these commercials are part of the pre-determined network broadcast schedule. The "predetermined network broadcast schedule" may be interpreted as broadly as just a schedule with programming slots and commercial slots.

Further, since they pre-stored commercials are stored at the client there is no need for them to be rebroadcast, which will not result in a waste of broadcast bandwidth.

Applicant further argues that Hite fails to teach that a pre-stored commercial would be broadcast prior to the upcoming scheduled broadcast of a selected multi-media data file by the broadcast server of the broadcast service system as part of the predetermined network broadcast schedule, as in Claim 1, since any subsequent broadcast would be a waste of broadcast bandwidth since pre-stored commercials are already contained on a user's set top box. Therefore, Hite teaches that pre-stored commercials are provided to replace scheduled broadcasts of the targeted commercials according to a broadcast schedule. The pre-stored commercials of Hite cannot become part of a predetermined network broadcast schedule, as suggested by the Examiner, because these replacement commercials in fact alter the predetermined broadcast schedule.

The Examiner respectfully disagrees. These pre-stored commercials are known to be substituted in the pre-determined commercials locations. Thus, these commercials are part of the pre-determined network broadcast schedule. The "predetermined network broadcast schedule" may be interpreted as broadly as just a schedule with programming slots and commercial slots.

Further, since they pre-stored commercials are stored at the client there is no need for them to be rebroadcast, which will not result in a waste of broadcast bandwidth.

Applicant further argues the Examiner fails to recognize that the at least one multi-media data file that is selected from the plurality of upcoming multi-media data files is broadcast for selective storage within the one or more client systems, according to respective content rating tables of the one or more client systems. It is improper for the Examiner to rely on *Hite* since it cannot be said that the content rating tables of Claim 1 would refer to commercials nor would one skilled in the art understand that the broadcasting of upcoming multi-media data files for selective storage within one or more client systems prior to the upcoming scheduled broadcast of the selected multi-media data file would include a commercial as in *Hite*. Hence, the broadcast of a selected multi-media data file for selective storage within one or more client systems prior to the upcoming scheduled broadcast of the selected multi-media data file would not apply to a commercial spot as suggested by the Examiner since it is indicated by user sentiment against the display of commercial spots a user would most likely not be inclined to rate commercial spots or desire the selective storage of such commercial spots within a client system. We submit that since the consumers of broadcast service systems are generally adverse to spending time watching commercial spots, one of skilled in the art would not be motivated to modify *Seidman* in view of *Brunheroto* to teach or suggest the broadcast of a selected multi-media data file for selective storage within one or more

client systems prior to the upcoming scheduled broadcast of the selected multi-media data file, by the broadcast server of a broadcast service system, is part of the predetermined broadcast schedule, as in Claim 1.

The Examiner respectfully disagrees. The advertisements of Hite are targeted advertisements. Thus, this means they are rated (i.e. stored in the Targeted Consumer Database). Determining suitable commercials to pre-store is done according to the ratings (analysis). This, Hite may be relied upon to teach "...at least one of the plurality of upcoming data files for selective storage within the one or more client system according to content rating tables of the on or more client system prior to the scheduled broadcast...".

Claims 25-26, 34, 36 are analyzed similarly to the above arguments.

Claims 6-8, 28-28, 35 are analyzed similarly to the above arguments.